

Translation

PATENT COOPERATION TREATY

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PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 25330 WO	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. PCT/EP2003/014049	International filing date (day/month/year) 11 December 2003 (11.12.2003)	Priority date (day/month/year) 19 December 2002 (19.12.2002)
International Patent Classification (IPC) or national classification and IPC G02C 5/22		
Applicant OBE OHNMACHT & BAUMGÄRTNER GMBH & CO. KG		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

a. ☐ (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:

☐ sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).

☐ sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.

b. ☐ (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

☒ Box No. I Basis of the report

☐ Box No. II Priority

☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

☐ Box No. IV Lack of unity of invention

☒ Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

☐ Box No. VI Certain documents cited

☐ Box No. VII Certain defects in the international application

☐ Box No. VIII Certain observations on the international application

Date of submission of the demand 30 April 2004 (30.04.2004)	Date of completion of this report 16 March 2005 (16.03.2005)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/EP2003/014049

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language _____, which is language of a translation furnished for the purpose of:

- ☐ international search (under Rules 12.3 and 23.1(b))
- ☐ publication of the international application (under Rule 12.4)
- ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

☒ The international application as originally filed/furnished

☒ the description:

pages _____ 1-25 _____, as originally filed/furnished

pages* _____ received by this Authority on _____

pages* _____ received by this Authority on _____

☒ the claims:

pages _____ 1-14 _____, as originally filed/furnished

pages* _____, as amended (together with any statement) under Article 19

pages* _____ received by this Authority on _____

pages* _____ received by this Authority on _____

☒ the drawings:

pages _____ 1/10-10/10 _____, as originally filed/furnished

pages* _____ received by this Authority on _____

pages* _____ received by this Authority on _____

☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/14049

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**1. Statement**

Novelty (N)	Claims	1-14	YES
	Claims		NO
Inventive step (IS)	Claims		YES
	Claims	1-14	NO
Industrial applicability (IA)	Claims	1-14	YES
	Claims		NO

2. Citations and explanations

- 1 The documents cited in the international search report are referred to as D1-D6, reflecting the order of citation.

Reference is made in particular to the following documents:

D1: DE 195 11 167 A (OBE WERK KG) 10 October 1996
(1996-10-10)

D2: EP-A-0 652 456 (VISOTTICA SPA) 10 May 1995
(1995-05-10).

- 2 Claims 1-14 cannot be considered inventive within the meaning of PCT Article 33(3) for the following reasons:

- 2.1 Document D1 describes a spring hinge for eyeglasses, comprising a central part to which side pieces are swivel-mounted, a spring element (11) cooperating with the side pieces, a housing (3) having a recess (5) which accommodates the hinge element (7) and the spring element (11) and inside of which the hinge element (7) is disposed in a displaceable manner, and a blocking part (13) disposed in the recess (5),

wherein the blocking part (13) has a receiving area (27) and the housing (3) has a deformation area (29) which can be displaced into the receiving area (27), wherein the receiving area (27) is configured in such a way that the blocking part (13) and hence the hinge element (7) are prevented from being pulled out of the recess (5).

In document D1 the receiving area is in the form of a circular groove (see figures 1-5 and column 2, line 22, to column 3, line 66).

The subject matter of claim 1 differs from the spring hinge described in the document D1 only in the design of the receiving area of the blocking part.

In document D1, the blocking part ("blocking ring" 13) can be twisted owing to its cylindrical shape and the peripheral circular groove. This adversely affects the stability of the anchoring of the blocking body (see figure 2).

A person skilled in the art wishing to make the anchoring of the blocking part of the hinge of document D1 more stable and to prevent any unintentional twisting of said blocking part would replace the circular groove with a receiving area restricted to the area immediately surrounding the deformation area (bead) and in this way arrive at the subject matter of claim 1 in an obvious manner.

Claim 1 therefore does not involve an inventive step.

2.2 Document D1 further discloses that:

- the deformation area (29) is formed by at least one part of the wall of the housing (3), this part of the wall being plastically deformable using a tool (see figure 1);
- the wall part is closed;
- the wall part is formed by the edge of a hole introduced into the housing (3) (see column 3, lines 43-46);
- the plastically deformable part of the wall of the housing (3) is thinner than the remainder of the wall (47) of the housing (3) (see figure 1 and column 3, lines 45-60);
- the receiving area (27) has at least one depression (groove) which can be introduced into the base part of the blocking part (13).

The feature according to which the tool for the deformation of the wall part comprises a mandrel is implicitly disclosed in document D1 since a bead is usually formed by a mandrel.

The feature according to which the receiving area has at least one section which can be introduced into the base part of the blocking part and which encloses the deformation area on at least three sides is necessary to secure the blocking part against twisting (see also point 2.1 above).

Claims 2-4 and 6-9 therefore likewise do not define an inventive subject matter.

2.3 Claims 5 and 10-14 also do not involve an inventive step because the features defined therein are known

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/14049

from the prior art (see document D2, figures 1-4).